

**IN UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TEXAS**

**SHERMAN DIVISION**

**DATE:** 6/8/2020

**DISTRICT JUDGE**  
**Amos L. Mazzant, III**

**COURT REPORTER: Jan Mason**  
**COURTROOM DEPUTY: Keary Conrad**

Frostine and Richard Newberry	4:19-CV-147
v.	
Rosa Lopez dba A & R Rent-A-Fence	

<b>ATTORNEYS FOR PLAINTIFF</b>	<b>ATTORNEYS FOR DEFENDANT</b>
Mark Underwood and Melissa Munich	Adam Trevor Hamilton and Robert Palmer

On this day, came the parties by their attorneys and the following proceedings were held in Sherman, TX:

<b>TIME:</b>	<b>MINUTES: Voir Dire, Jury Selection and Trial - Day 1</b>
9:57 a.m.	Court in session. Court notes appearances.
9:57 a.m.	Court begins introduction and initial voir dire to the panel.
10:11 a.m.	Plaintiff's counsel, Mark Underwood begins voir dire.
10:47 a.m.	Defendant's counsel, Adam Hamilton begins voir dire.
11:13 a.m.	Court recess for attorney strikes.
12:14 p.m.	Court re-convenes. Jury seated. Jury placed under oath.
12:24 p.m.	Court begins preliminary instructions to jury.
12:37 p.m.	Plaintiff's counsel, Mark Underwood begins opening statement.
12:51 p.m.	Defendant's counsel, Adam Hamilton begins opening statement.
12:59 p.m.	Court recess for lunch.
1:00 p.m.	Jury excused. Parties notify the Court they will meet regarding exhibits. Court reminds the parties that all exhibits are conditionally admitted unless there is an objection but the exhibit must be utilized with a witness.

2:01 p.m.	Court conditionally admits all the exhibits where there is no objection. Plaintiff's counsel, Don Flanary calls Rosa Lopez. Witness is placed under oath.
2:25 p.m.	Plaintiff's counsel, Don Flanary refers witness Rosa Lopez to Plaintiff's Exhibit 3.
2:29 p.m.	Plaintiff's counsel, Don Flanary refers witness Rosa Lopez to Plaintiff's Exhibit 12.
2:41 p.m.	Defendant's counsel, Adam Hamilton begins cross examination of Rosa Lopez.
2:56 p.m.	Bench conference.
2:59 p.m.	Defendant's counsel, Adam Hamilton refers witness Rosa Lopez to Defendant's Exhibit 34. [redacted]
3:08 p.m.	Defendant's counsel, Adam Hamilton refers witness Rosa Lopez to Defendant's Exhibit 38.
3:18 p.m.	Plaintiff's counsel, Don Flanary begins re-direct examination.
3:26 p.m.	Defendant's counsel, Adam Hamilton begins re-cross examination.
3:30 p.m.	Plaintiff's counsel, Don Flanary further questions of witness Rosa Lopez.
3:35 p.m.	Defendant's counsel, Adam Hamilton follow up question of witness Rosa Lopez.
3:40 p.m.	Plaintiff's counsel, Don Flanary further questions of witness Rosa Lopez.
3:41 p.m.	Court polls the jury for questions.
3:42 p.m.	Bench conference.
3:43 p.m.	Court recess for 15 minutes.
3:45 p.m.	Plaintiff's counsel addresses the Court regarding Exhibits. Plaintiff's counsel, Mark Underwood advises that the Plaintiff's stipulate to Defendant's Exhibits 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, not 15; 16, 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34 (redacted), and 35. Defendant's object to Plaintiff's medical bills since the hospital bills were reduced by a significant amount and argues the bills should be redacted. Parties agree that the Affidavits should be submitted with the medical record/bill exhibits but that the amounts in those exhibits will be redacted. Parties will discuss expert reports and will try to reach an agreement.
	Defendant's counsel, Adam Hamilton notes the settlements received by Plaintiff to other Defendants in the case.

3:50 p.m.	Court recess for 15 minutes.
4:05 p.m.	Court re-convenes. Plaintiff's counsel, Mark Underwood calls Plaintiff Frostine Newberry. Witness placed under oath. Plaintiff's counsel, Mark Underwood begins direct examination.
4:10 p.m.	Plaintiff's counsel, Mark Underwood refers witness Frostine Newberry to Plaintiff's Exhibits 1, 2, 3, and 4.
4:32 p.m.	Plaintiff's counsel, Mark Underwood refers witness Frostine Newberry to Plaintiff's Exhibits 13, 15, 16, 17, 18, 19, 20, 21. Pass the witness.
4:36 p.m.	Defendant's counsel, Adam Hamilton begins cross examination of Frostine Newberry.
4:47 p.m.	Defendant's counsel, Adam Hamilton refers witness to Defendant's Exhibit 13.
4:55 p.m.	Defendant's counsel, Adam Hamilton refers witness to Defendant's Exhibit 4.
4:58 p.m.	Jury released.
5:00 p.m.	Parties discuss timing for remainder of trial. Court will provide the proposed charge to the Parties and will do an informal charge conference at 8:05 a.m. tomorrow.
5:02 p.m.	Court adjourned.

DAVID O'TOOLE, CLERK

BY: Keary Conrad  
Courtroom Deputy Clerk